

Case No. 5:02-CR-255-33
Gwin, J.

The Court receives authority to modify an imposed term of imprisonment from [18 U.S.C. § 3582\(c\)](#). According to the provision:

The court may not modify a term of imprisonment once it has been imposed except that--

...

(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to [28 U.S.C. § 994\(o\)](#), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in Section 3553(a) to the extent that they are applicable, *if such a reduction is consistent with applicable policy statements* issued by the Sentencing Commission.

[18 U.S.C. § 3582\(c\)](#) (emphasis added). The policy statement applicable to sentence reductions as a result of an amended guideline range, [U.S.S.G. § 1B1.10](#), includes commentary that explicitly refers to the situation of supervised release. “Only a term of imprisonment imposed as part of the original sentence is authorized to be reduced under this section. This section does not authorize a reduction in the term of imprisonment imposed upon revocation of supervised release.” [Appl. Note 4\(A\) to U.S.S.G. § 1B1.10](#).

III. Analysis

Defendant Wooley completed his original sentence and was released on December 5, 2007. He was then taken into custody again as a result of a supervised release violation. Therefore, the instant motion, made while Wooley was in custody and awaiting sentencing on the supervised release violation, fails. The Defendant had already completed his original sentence and the Court is not authorized to reduce a sentence imposed upon revocation of supervised release.

IV. Conclusion

For the foregoing reasons, this Court **DENIES** the Defendant’s motion for a sentence

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reduction. [Doc. [1004](#).]

IT IS SO ORDERED.

Dated: December 24, 2008

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE